

CHIEF OF DETECTIVES

NOTICE

1.8

May 17, 2017

TO: All Concerned Personnel

FROM: Chief of Detectives

SUBJECT: ENFORCEMENT ACTIONS RELATED TO UNDOCUMENTED PERSONS – REVISED; AND, GUIDELINES FOR ENFORCEMENT ACTIONS RELATED TO CRIMINAL IMMIGRATION OFFENSES

This Notice supersedes Chief of Detectives Notice titled, *Enforcement Actions Related to Undocumented Persons*, dated December 21, 2016.

This Notice provides guidance to Los Angeles Police Department personnel on enforcement actions related to persons wanted for federal immigration crimes. The Department maintains its steadfast commitment to public safety through community partnerships, regardless of immigration status, while adhering to the law.

EXISTING POLICY

Per Department Manual Sections 1/390, *Undocumented Aliens* and 4/264.50, *Enforcement of United States Immigration Laws*, officers are prohibited from initiating police action with the objective of determining a person's immigration status.

The California Transparency and Responsibility Using State Tools (TRUST) Act further restricts a local law enforcement agency from honoring an Immigration Detainer Notice of Action, also known as an "Immigration and Customs Enforcement (ICE) Detainer Request," which asks a local agency to voluntarily extend an arrestee's time in custody for up to 48 hours beyond the time he or she would otherwise be released. An ICE Detainer Request is based on Department of Homeland Security's determination that an individual may be subject to civil immigration proceedings such as removal or deportation from the United States. It is neither an arrest warrant nor judicial order based on probable cause that the individual has committed a federal or state crime.

In compliance with the California TRUST Act and recent federal court decisions, the Department modified its policy regarding ICE Detainer Requests as reflected in Custody Services Division (CSD), Jail Operations Manual Section 2/501, *Immigration and Customs Enforcement (ICE) Hold Pending Procedure*. The CSD will not detain an individual based on an ICE Detainer Request without one of the following:

- Judicial Determination of Probable Cause for the detainer; or
- Arrest warrant issued by a judicial officer.

GUIDELINES AND PROCEDURES

This Notice provides guidance for officers who discover through the National Crime Information Center (NCIC) database that an individual is wanted by federal authorities for a civil or criminal immigration offense. When an NCIC query is conducted, it is important to identify and distinguish a civil ICE Detainer Request from a criminal arrest warrant:

- The **NCIC Wanted Persons Record** includes individuals with outstanding federal or state criminal arrest warrants that have been issued by a judicial magistrate.
- The **NCIC Immigration Violator's Record** includes ICE Detainer Requests for individuals who may be subject to removal from the United States based on their civil immigration status and persons who may have violated federal criminal immigration laws for illegally re-entering the United States after a conviction for a criminal offense.

NOTE: Officers are reminded that initial NCIC queries shall only be made for legitimate law enforcement purposes unrelated to determining a person's immigration status.

To determine whether an individual with an NCIC Immigration Violator's Record is wanted, officers shall perform the following (See Example No. 1):

1. Check the first letter of the alphanumeric NIC number. A letter, "N" identifies an ICE Immigration Detainer Request while a letter "W" followed by a nine-digit number indicates a criminal arrest warrant;
2. Check the Originating Agency Identifier (ORI) number or name of the agency;
3. Search for the word "DETAINDER" within the NCIC printout; and
4. Check if the subject is a "DEPORTED CRIMINAL" classified as an "AGGRAVATED FELON."

PROCEDURES FOR AN INDIVIDUAL WANTED BASED ON A CRIMINAL ARREST WARRANT

If the individual's NCIC record indicates an outstanding criminal arrest warrant for an immigration-related offense, officers shall follow the same procedures for warrant arrests as set forth in Department Manual Section 4/611.10, *Positive Response to CWS Inquiry – Employee's Responsibility* and Arrest Report – Field Notebook Divider, Form 18.32.00 (08/15) – Warrant Arrests.

IJ

***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS. WARNING REGARDING FOLLOWING RECORD - SUBJECT OF NIC / N123456789 IS A PREVIOUSLY DEPORTED FELON. CONTACT LESC AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

ORI / VTICE0900 NAM / DOE, JOHN SEX / M RAC / W POB / MC

DOB / 19890501 HGT / 600 WGT / 195 EYE / BRO HAI / BLK FBI / 987654EC3

SKN / MED SMT / TAT L ARM

FPC / UCUCUCUCUCUCUCUCUCUCUC MNU / AR - A82031465

OFF / SUBJECT IS A DEPORTED CRIMINAL / AGGRAVATED FELON

OCA / A085274196

VLD / 20160504

DNA / N

ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW
ENFORCEMENT SUPPORT CENTER 877 999-5372

DOB / 19890505

DOB / 19880501

AKA / DOE, JON

AKA / DOE, JOHNNY

AKA / DOE, JONATHAN

AKA / DOE, JUAN

AKA / GARCIA, JOHN

AKA / GARCIA, JUAN

SMT / TAT L SHLD

SMT / TAT R ARM

SMT / TAT R SHLD

MNU / AR - A085274196

MNU / AR - A85274196

NIC / N123456789 DTE / 20130615 1430 EDT DLU / 20160504 1815 EDT

**** THIS RECORD MAY ONLY BE USED BY CRIMINAL JUSTICE AGENCIES
FOR CRIMINAL JUSTICE PURPOSES.

****END OF IMMIGRATION VIOLATOR FILE RESPONSE. ****

OUTPUT MSG 0403,

FROM

HT63YYYY04/07/2017 11:32

PROCEDURE FOR AN INDIVIDUAL IDENTIFIED AS A "DEPORTED CRIMINAL/AGGRAVATED FELON"

If an NCIC inquiry returns an Immigration Violator's Record that indicates a person is a "Deported Criminal/Aggravated Felon," an officer may detain the individual for a reasonable period to investigate whether the individual may be in violation of Title 8, United States Code Section 1326(a), (b)(2) (Illegal Re-Entry after Conviction of an Aggravated Felony), a felony criminal offense. The following procedures shall be followed:

- Check the individual's criminal history information in Consolidated Criminal History Reporting System (CCHRS), California Information and Identification Number (CII) and/or the Federal Bureau of Investigation criminal arrest records for indicators of prior removals, or deportations;
- Determine if the individual had been previously *convicted* of an aggravated felony offense¹ (arrests are insufficient); and
- Immediately advise the Area watch commander.

AREA WATCH COMMANDER'S RESPONSIBILITIES:

- Review all supporting documents;
- Contact the Real-Time Analysis and Critical Response (RACR) Division to be connected with the Department's Immigration Liaison Officer (ILO) to request an approval to (1) further detain the individual, and (2) contact the ICE's Law Enforcement Support Center (LESC);
- If approved by the ILO, advise the Area Commanding Officer and notify the LESC at the telephone number indicated in the Immigration Violator's Record NCIC hit confirmation printout;
- Advise the LESC that the detained individual will be held for a reasonable period, not exceeding four hours, unless the person is detained for an unrelated criminal offense. Any temporary detention beyond four hours must be re-approved by the ILO;
- If the individual is being booked for an unrelated criminal offense, notify the Commanding Officer of CSD; and
- Document the results in the Watch Commander's Daily Report, Form 15.80.00 (watch commander's log).

¹ "Aggravated felonies" include murder, rape, sexual abuse of a minor, illicit trafficking in controlled substance or in firearms/destructive devices, laundering monetary instruments, explosive materials offenses, crimes of violence, theft/burglary/receipt of stolen property, demand for or receipt of ransom, child pornography, RICO, owning controlling managing supervising prostitution business, gathering/transmitting national defense information, offense involving fraud or deceit causing loss to victim over \$10,000, alien smuggling, improper entry/reentry by alien previously deported, falsely making/forging/counterfeiting/mutilating/altering passport or instrument, failure to appear for service of sentence when underlying offense punishable by five years or more, commercial bribery/counterfeiting/forgery/trafficking in vehicles, obstruction of justice/perjury or subornation of perjury/bribery of witness, failure to appear after court order to answer felony charges, and attempt or conspiracy to commit any of the above offenses. See 8 U.S.C. § 1101(a)(43).

AREA COMMANDING OFFICER'S RESPONSIBILITY:

- Ensure proper notifications are made to the appropriate Bureau Commanding Officers.

DEPARTMENT IMMIGRATION LIAISON OFFICER'S RESPONSIBILITIES:

- Review and approve all ICE detainer actions; and
- Maintain a record of all ICE detainer actions.

PROCEDURES FOR AN INDIVIDUAL NOT IDENTIFIED AS WANTED BASED ON A CRIMINAL ARREST WARRANT OR AS A "DEPORTED CRIMINAL/AGGRAVATED FELON"

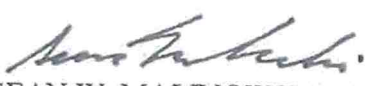
If an NCIC record neither indicates an outstanding criminal arrest warrant nor identifies the individual as a "Deported Criminal/Aggravated Felon," the individual shall be immediately released from custody unless reasonable suspicion or probable cause exists to detain or arrest the individual for an unrelated criminal charge.

Should you have any questions, please contact Investigative Analysis Section, Detective Bureau at (213) 486-7010.



JUSTIN E. SENBERG, Deputy Chief
Chief of Detectives

APPROVED:



SEAN W. MALINOWSKI, Deputy Chief
Chief of Staff
Office of the Chief of Police

DISTRIBUTION "A"